

TECHNOLOGY STANDARDS

Category:	ITC Number: ITC-WEB-0503 If Approved in January
Subcategory:	Name: Copyrights and Disclaimers
Definition:	A copyright is the 'rights' of an author or publisher to the 'copy' (text of an article) that author or publisher produced. This has come to mean the right of intellectual property, whereby authors obtain, for a specific time, certain exclusive rights to their work.
Justification:	State agencies need an understanding of copyright law to make sure that the work posted, if applicable, is either protected by the law, or does not infringe on the copyrights of others.
Specifications:	<p>Copyright</p> <p>In the United States, copyright protections are exclusively granted under federal law, which derive from Article 1, Section 8, Clause 8 of the U.S. Constitution which provides Congress with the power “to promote science and the useful arts, by securing for a limited times to authors ...the exclusive right to their...writings”.</p> <p>In the United States, and most other countries, a work is copyrighted automatically upon creation. No notice is required nor is registration required with a government agency. Works that do not enjoy copyright privileges are considered to be in the public domain. Common examples of public domain works are:</p> <ul style="list-style-type: none"> ▪ Works for which the copyright has expired. Expiration of a copyright depends on a number of criteria and can run from 28 to 100 years. ▪ Works of the U.S. Government. These works cannot be copyrighted. However, it appears that works, which have been created for the Government by a commercial entity, may have some copyright protection from commercial use. ▪ Non-copyrightable works such as titles, names, short phrases and slogans. (However, these may be trademarks.) ▪ Works for which the copyright has been forfeited or abandoned. The most common form of copyright forfeiture is the lack of specific copyright notice on materials published before March 1, 1988. (After that date posting of notice was no longer required for a copyright.) Abandonment requires specific language and intent to place copyrighted works in the public domain by the author. <p>“Fair Use” of a Copyrighted Work. Copyrighted works can be “fairly used” without fear of copyright infringement for such purposes as criticism, comment, news reporting, teaching, scholarship, or research. Whether the use of a</p>

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	<p>work is fair is determined by balancing these factors:</p> <ul style="list-style-type: none"> ▪ The purpose and character of the use. ▪ The nature of the copyrighted work. ▪ The amount and substantiality of the portion used in relation to the work as a whole. ▪ The effect of the use on the potential market for, or value of, the copyrighted work. <p>Work for hire</p> <p>Work prepared by an employee in the scope of her or her employment is considered work for hire. Work specially commissioned or ordered under certain circumstances may also be considered work for hire. The employer or commissioner (in this case, the State) owns the copyright on work by that employee or contractor.</p> <p>http://www.copyright.gov/</p>
<p>Recommendations:</p>	<p>Copyright issue: The Attorney General's office needs to develop standard language for web sites covering images, data, design and content. Contracts for web design need to include copyright ownership language, giving the state the right to alter as they wish, and not permitting private contractors to place copyright notice on state web pages. Suggestion: Standard copyright notice on web site pages with a link to a more explanatory statement on the state's home web site. Same for privacy statements and standard disclaimers.</p> <ul style="list-style-type: none"> ▪ Extreme caution should be exercised in using digital material downloaded from the Internet because there is a mix of works protected by copyright and works in the public domain on the Internet. Access to these works on the Internet does not automatically mean that these works can be reproduced and reused without permission and/or royalty payment. ▪ Please note that proper credit should be given for all copyrighted material. When in doubt, credit should be given as if the material was copyrighted. ▪ In general no more than 10% of copyrighted textual, motion, music, or collections of illustrations or photographs should be included. In the case of independent illustrations or collections, no more than 5 images of an artist or photographer should be included. If there is a possibility that multimedia content (e.g. image, movie) may become part of a commercial product in the future or will become widely disseminated, then permissions should be sought before publication of the product. ▪ If any alterations are made to copyrighted material, then care should be taken to explain the specific changes. Copyright Status: The West Virginia State Government retains a nonexclusive, royalty-free license to publish or reproduce these documents, or allow others to do so, for West Virginia State Government purposes. These documents may be freely distributed and used for non-commercial, scientific and educational purposes. Commercial

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- Area -

☒ Internet/Intranet ☐ Network ☐ Operating ☐ Data Standard ☐ Security

List Keyword or Metadata:

[Copyright](#), [Fair Use](#), [Digital Milinium Act](#), [Internet](#), [Web](#)

Provide the Status of this technology area:

☒ Under Review ☐ Rejected ☐ Accepted

Audit Trail					
Creation Date:	<u>10/25/04</u>	Date Accepted/Rejected by Standards:	<u>12/1/04</u>	Date Accepted/Rejected by ITC:	
Reason for Rejection:					
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